

Purpose of Voluntary Guardianships:

A person 18 or older who needs assistance with the management of his or her affairs may file a petition with Probate Court and request the appointment of a guardian. The petition can specify the powers to be conferred on the guardian and the person to be named as guardian.

The voluntary guardianship has some unique features. There is no Court finding that the person going under guardianship is incompetent. This type of guardianship cannot be set up for a person who is mentally disabled. At any time, the ward can move to terminate the guardianship, and the Court will proceed with the termination unless the guardian files for an involuntary guardianship.

Powers of a Voluntary Guardian:

When an infirm person requests a guardianship, they can request that the guardian have specific powers including general supervision, power to consent to medical procedures, and financial powers.

Process for Creating a Voluntary Guardianship:

Although guardianships can be established without the involvement of an attorney, the assistance of an attorney can simplify such cases and avoid mistakes in the creation and accounting of guardianships.

1. The first step in the process to creating a guardianship is to file a Petition with the Probate Court. The Petition requests that a guardian be appointed for a person who is referred to as the "proposed ward". In the case of the Voluntary Guardianship it is the "proposed ward" who petitions the Court.
2. Please download a copy of the Petition for Voluntary Guardianship from the above link. Forms are also available at the Probate Court.
3. The Petition must be accompanied by the Statement of the Proposed Ward's Assets and Income (Form 73). Once the Petition and accompanying forms have been completed, they need to be filed with the Probate Court.
4. When a petition for guardianship is filed with Probate Court, a hearing is scheduled so that the Probate Court Judge can determine if the guardianship is in the best interest of the "proposed ward."